

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Russell C. Muniz, MBA, CMC, Town Clerk

PREPARED BY: Russell C. Muniz, MBA, CMC, Town Clerk

SUBJECT: Audio/Video Surveillance Issue

AFFECTED DISTRICT: District 1

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: Old Business

REPORT IN BRIEF: See attached memo from Town Attorney Jim Cherof on this issue.

PREVIOUS ACTIONS: N/A

CONCURRENCES: N/A

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

If yes, expected cost: \$

Account Name:

If no, amount needed: \$

What account will funds be appropriated from:

Additional Comments:

RECOMMENDATION(S):

Attachment(s): Memo from Town Attorney Jim Cherof

TOWN OF DAVIE
INTER-OFFICE CORRESPONDENCE
MEMORANDUM NO. 2007-012

TO: Mayor Tom Truex
Members of the Town Council

CC: Gary Shimun, Town Administrator

FROM: James A. Cherof, Town Attorney
Jacob G. Horowitz, Assistant Town Attorney

RE: Town of Davie ("Town") / Surveillance in Town Hall – Control No. 0120070208

DATE: May 1, 2007

Pursuant to the request of Councilmember Starkey, the Town Attorney's Office has examined whether the Town may install audio and/or video surveillance equipment in Town Hall as well as other public facilities. After reviewing this issue, our office has concluded that the Town **may** install such surveillance equipment in public buildings throughout the Town, including Town Hall.

Since there is no provision in the Florida Statutes that would prevent the Town from installing surveillance equipment, the Town is permitted to do so pursuant to its constitutionally granted home rule authority.

The Florida Statutes do, however, provide expressed guidelines with regards to the *audio* recording of private conversations, and such regulations must be considered should the Town decide to install this type of surveillance equipment. Specifically, Section 934.03, F.S., prohibits the interception and disclosure of wire, oral and electronic communications, subject to certain exceptions. Chapter 934, F.S., in general, provides regulations regarding the security of communications, particularly related to law enforcement matters.

In addition, courts have expressly addressed the general public's reasonable expectation of privacy in public places. *Adams v. State*, 436 So.2d 1132 (4th DCA 1983), *State v. Sarmiento*, 397 So.2d 643 (Fla. 1981) and *Hill v. State*, 422 So.2d 816 (Fla. 1982). While holdings have varied, it is generally agreed that there is a lesser expectation of privacy in a public place than a private place. Nevertheless, depending on the circumstances, courts appear hesitant to admit into evidence audio recordings of conversations recorded in public places.

In light of the detailed restrictions set forth in the Florida Statutes as well as the case law, we would **recommend against** installing **audio** surveillance equipment in public buildings in the Town.

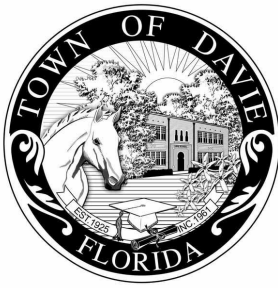
Should the Town decide to install audio and/or video surveillance equipment, we **would recommend** posting signs informing the public and Town employees that such equipment is being utilized. Though nothing has been specifically on point, there have been court decisions addressing the public's "reasonable expectation of privacy" in public buildings. Putting the public and Town employees on notice will assist in preemptively addressing any issues that may arise regarding the use of such security devices.

Please note, however, that once audio and/or video surveillance equipment is installed, the information garnered by this equipment may become part of the public record and be subject to disclosure pursuant to Ch. 119, Florida Statutes. In addition, pursuant to the Retention Schedule for Administrative Records, all audio or video recordings must be retained by the Town for a period of no less than thirty (30) days.

If you have any additional questions regarding this matter, please do not hesitate to contact our office.

JAC:JGH:js


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ITEM NUMBER: _____

DEPARTMENT OF HUMAN RESOURCES
MANAGEMENT

6591 ORANGE DRIVE • DAVIE, FLORIDA 33314-3399
PHONE: 954.797.1100 • FAX: 954.797.1079 • WWW.DAVIE-FL.GOV

DATE: July 20, 2007
To: Gary Shimun, Town Administrator
FROM/PHONE: Mark Alan,  Director of Human Resources Management
SUBJECT: Audio/Video Recording/Documentation
AGENDA DATE: August 01, 2007

Please find below a listing of some of the benefits of audio/video documentation.

1. Provides appropriately noticed visual and audio documentation of transactions
2. Assists in resolving disputes of material fact concerning transactions
3. Fosters a safe environment for staff and visitors by serving as a deterrent to inappropriate conduct and/or speech on the part of staff and/or visitors
4. Fosters a professional environment where employees "think before they speak" when dealing with customers, ensuring greater accuracy and a "non-emotional" response
5. Provides evidence of inappropriate conduct and/or speech on the part of staff and/or visitors
6. Serves to enhance quality control
7. Serves to assist in training initiatives

The Practice has, in fact, been having these effects.

The Town's audio and video recording practice is analogous to:
"This call may be recorded for quality and training purposes."

Other pertinent information:

- § The Town's audio and video recording practices comply with applicable statutes.
- § Notices are posted on every entry to an area where audio/video recording may be taking place.

- § All audio and video recordings are retained for a period of no less than thirty (30) days.
- § Confidential discussion does not transpire while audio recordings are being made.
- § Staff has the ability to turn off the audio recording portion of the audio/video documentation.
- § Staff favors this audio/video documentation practice.

MA:ma